
LEASE AGREEMENT

Between

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA**

Landlord,

and

FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY

Tenant

relating to

AFFORDABLE HOUSING ACQUISITION

Dated as of _____, 2015

LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of _____, 20__ (the "Lease"), by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia having its principal office at 12000 Government Center Parkway, Fairfax, Virginia (the "County"), and the **FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY**, a political subdivision of the Commonwealth of Virginia having its principal office at 3700 Pender Drive, Suite 300, Fairfax, Virginia ("FCRHA").

W I T N E S S E T H:

WHEREAS, simultaneously with the execution and delivery of this Lease, FCRHA has issued its \$_____ Fairfax County Redevelopment and Housing Authority promissory note (the "2015 Affordable Housing Note") to Bank of America, N.A. (the "Bank") as evidence of a loan (the "2015 Loan") received by FCRHA from the Bank pursuant to the terms of a loan agreement (the "Loan Agreement") by and among the Bank, FCRHA and the County to refinance the outstanding Fairfax County Redevelopment and Housing Authority Bond Anticipation Notes (Affordable Housing Acquisition) Series 2013A (Taxable) (the "Outstanding Notes") previously issued to refinance the outstanding Fairfax County Redevelopment and Housing Authority Bond Anticipation Notes (Affordable Housing Acquisition) Series 2011A (the "2011 Notes"). The proceeds of the 2011 Notes were applied in May 2011 to refinance bond anticipation notes issued in February 2008 to pay the principal amount of a bond anticipation note issued in February 2007, which was issued to pay the principal amount of a bond anticipation note issued in February 2006, for purposes of providing a portion of the purchase price of, and enabling the County to acquire title to, the 180-unit Crescent Apartments multi-family rental housing complex, including the approximately 16.5 acre site thereof, located at 1527 Cameron Crescent Drive in Reston, Virginia (the "Property"); and

WHEREAS, simultaneously with the execution and delivery of this Lease, FCRHA has partially prepaid the rent due under this Lease by making available the proceeds of the 2015 Loan and has caused the proceeds to be applied to the payment of the principal amount of the Outstanding Notes; and

WHEREAS, simultaneously with the execution and delivery of this Lease, the parties will also enter into a Payment Agreement of even date (the "Payment Agreement") by the terms of which the County will agree to make payments, subject to appropriation, to FCRHA in amounts sufficient for FCRHA to pay timely the debt service on the 2015 Affordable Housing Note and all other amounts due and owing under the Loan Agreement (if provision for payment is not made from the proceeds of additional interim or long-term financing or other sources), and FCRHA, with the consent of the County, will assign its rights under the Payment Agreement to the Bank;

NOW, THEREFORE, in consideration of the mutual promises contained herein and the sum of Ten Dollars (\$10) paid by FCRHA to the County and receipt of which is hereby

acknowledged by the County, the County hereby leases to FCRHA the Property which is hereinafter identified generally and includes the parcel of land described in Exhibit A to this Lease and all improvements thereon, as the same may at any time exist, subject to encumbrances specified in Exhibit B to this lease and subject to the following terms and conditions:

1. **Term of Lease.** The term of this Lease commences on March 1, 2015 (“Effective Date”), and expires on _____, 20____.

2. **Rent.** The County agrees to rent the Property to FCRHA for a rental equal to the proceeds of the 2015 Loan payable on the Effective Date and an annual amount of \$_____ payable by FCRHA to the County from income derived from the operation of the Property fifteen business days prior to each ____ 1, commencing on ____ 1, 20____, and ending on ____ 1, 20____, or on any earlier date agreed to by the County and FCRHA if this lease is terminated pursuant to Section 6 hereof.

3. **Purposes for which Property May Be Used.** The Property which is subject to this Lease may be used and occupied, and shall be operated and managed by FCRHA, solely for purposes authorized by and in accordance with the provisions of the Housing Authorities Law, Chapter 1, Title 36, of the Code of Virginia of 1950, as amended (the “Enabling Act”). To that end, FCRHA hereby covenants to implement and comply with the terms of the resolution adopted by the Commissioners of FCRHA on July 27, 2006, with respect to the income limits applicable to tenants of the Property and the requirement that the Property be operated and maintained as a “residential building” within the meaning of the Enabling Act.

4. **Compliance with All Laws, Rules and Regulations.** The parties hereto represent that each will comply with all applicable, binding laws, rules and regulations, whether federal, Commonwealth of Virginia or County, relating to the use and occupancy of the Property.

5. **Nonassignability.** This Lease shall not be assigned by either party without the prior written approval of the other party.

6. **Termination.** This Lease may be terminated by the County, at its option, at any time prior to the expiration date after payment, or provision for payment, in full, of the principal of and redemption premium, if any, and interest on the 2015 Affordable Housing Note and of all other amounts due and owing under the Loan Agreement.

7. **Surrender of Property.** On the expiration date or upon earlier termination of this Lease, FCRHA shall quietly and peaceably surrender the Property. The County waives any right to recover from FCRHA for any unrepaired damage to the Property upon such surrender.

8. **Release of a Portion of the Property.** Notwithstanding any other provisions of this Lease, the parties hereto reserve the right at any time and from time to time to amend this Lease and the leasehold estate created hereby of (i) any portion of the Property, provided the Director of Public Works of the County or any person holding the highest rated engineering position held by the County or an independent engineer or engineering firm if so designated by the Board of Supervisors of the County provides a certificate not more than sixty (60) days prior to the date of the proposed release which states such release will not adversely

affect the utility of the Property as a multi-family rental housing facility, (ii) any unimproved part of the Property or (iii) any part of the Property with respect to which the County proposes to grant an easement or convey fee title to a public utility or public body in order that utility services or roads or other services may be provided for the Property; provided that if at the time such amendment is made any portion of the 2015 Affordable Housing Note is outstanding and unpaid there shall be delivered to the Bank the following:

(a) A copy of the said amendment as executed;

(b) A resolution of the Board of Supervisors of the County (i) stating that the County is not in default under any of the provisions of this Lease or the Payment Agreement and FCRHA is not to the knowledge of the County in default under any provisions of this Lease or the Payment Agreement, (ii) giving an adequate legal description of that portion of the Property to be released and (iii) stating the purpose for which the County desires the release; and

(c) A certificate showing that FCRHA has approved such amendment and stating FCRHA is not in default under any provisions of this Lease or the Payment Agreement.

9. **Limitation of Liability of FCRHA.** The obligations of FCRHA hereunder are not general obligations of FCRHA but are limited obligations payable solely from the proceeds of the 2015 Loan and certain income derived from the operation of the Property.

10. **Limitation of Personal Liability.** No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future supervisor, commissioner, officer, employee or agent of the County or FCRHA in his or her individual capacity, nor shall any supervisor, commissioner, officer, employee or agent of the County or FCRHA incur any personal liability with respect to any other action pursuant to this Lease, provided such supervisor, commissioner, officer, employee or agent acts in good faith.

11. **Insurance.** Insurance will be provided by the parties in accordance with Exhibit C.

12. **Governing Law.** The laws of the Commonwealth of Virginia govern the validity, interpretation, construction, and performance of this Lease.

13. **Amendments.** This Lease shall not be amended, changed or modified except by a written instrument duly executed by the parties hereto.

14. **Severability.** If any provision of this Lease is declared to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

[The rest of this page has been left blank intentionally]

IN WITNESS WHEREOF, the parties have executed this Lease under Seal as of the day and year first written above.

[SEAL]

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA**

ATTEST:

Catherine A. Chianese
Clerk

By: _____

Edward L. Long
County Executive

[SEAL]

**FAIRFAX COUNTY REDEVELOPMENT
AND HOUSING AUTHORITY**

ATTEST:

Assistant Secretary

By: _____

Chairman

LEGAL DESCRIPTION

Property To Be Leased By

Board of Supervisors of
Fairfax County, Virginia

to

Fairfax County Redevelopment and
Housing Authority

PERMITTED ENCUMBRANCES

“Permitted Encumbrances” shall mean, as of any particular time:

INSURANCE